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**THE ROOT OF THE PROBLEM: CARBON RIGHTS AND NATURAL RESOURCES ISSUES
IN SOLOMON ISLANDS AND VANUATU**

JENNIFER CORRIN

Carbon rights offer Pacific Island countries an alternative, sustainable way of gaining revenue from natural resources. The Pacific Islands Regional Policy Framework for REDD+ calls on countries to develop policy and a legislative framework for identifying and regulating carbon rights. However, carbon rights cannot be traded unless those who control the underlying resource can be clearly identified. In Melanesia, plural legal regimes governing natural resources present complex issues of "ownership" which need to be addressed before such schemes can be put into effect with any certainty. This article examines the questions surrounding "ownership" and use of natural resources in Solomon Islands and Vanuatu. It looks at the systems of land tenure and resource "ownership" in force in those countries and discusses the hurdles to introduction of carbon rights schemes presented by the current laws. The article concludes by putting forward some options for dealing with these issues.

**CUTTING THE GORDIAN KNOT OF FUTILITY: A CASE FOR LAW REFORM ON
UNILATERAL WITHHOLDING AND WITHDRAWAL OF POTENTIALLY LIFE-
SUSTAINING TREATMENT**

JOCELYN DOWNIE, LINDY WILLMOTT AND BEN WHITE

In this paper, we propose law reform with respect to the unilateral withholding or withdrawal of potentially life-sustaining treatment in Australia and New Zealand. That is, where a doctor withholds or withdraws potentially life-sustaining treatment without consent from a patient or a patient's substitute decision-maker (where the patient lacks capacity), or authorization from a court or tribunal, or by operation of a statute or justifiable government or institutional policy. Our proposal is grounded in the core values that do (or should) underpin a regulatory framework on an issue such as this; these values are drawn from existing commitments made by Australia and New Zealand through legislation, the common law, and conventions and treaties. It is also grounded in a critical review of the law on unilateral withholding and withdrawal as well as the legal context within which this issue sits in Australasia. We argue that the current law is inconsistent with the core values and develop a proposal for a legal response to this issue that more closely aligns with the core values it is supposed to serve.

**RECENT JUDICIAL RECOGNITION OF THE THIRD SOURCE OF AUTHORITY FOR
GOVERNMENT ACTION**

BV HARRIS

There is a growing, but not unanimously supported, momentum of judicial recognition in New Zealand and the United Kingdom of the executive having a residual freedom to take some actions that are not authorised by positive law. Three appellate cases in New Zealand, and one decision in the United Kingdom Supreme Court, have recently upheld the availability of what has been called the third source of authority for government action. However, the group of decisions has exposed remaining uncertainties about the origins and scope of the concept. This article critiques the four cases and how they have left the law.

**THE RISE AND FALL OF THE INTERNATIONAL LAW OF MARITIME TERRORISM:
THE GHOST OF PIRACY IS STILL HUNTING!**

MD SAIFUL KARIM

Maritime terrorism is a serious threat to global security. A major debate in this regard is the treating of acts of maritime terrorism as piracy by some scholars and a rejection of this view by others. Moreover, the international law of maritime terrorism suffers from fundamental definitional issues, much like the international law of terrorism. This article examines the current international law of maritime terrorism with a particular emphasis on the debate regarding the applicability of the international law of piracy in the case of maritime terrorism. It argues that the international law of piracy is not applicable in the enforcement and prosecution of maritime terrorists on the high seas. International treaties on terrorism and the post-September 11 developments relating to international laws on terrorism have created a workable international legal framework for combating maritime terrorism, despite some bottlenecks.

ORGANISING MIDDLE EARTH? COLLECTIVE BARGAINING AND FILM PRODUCTION WORKERS IN NEW ZEALAND

SHAE MCCRYSTAL

In 2010 the New Zealand Parliament passed an amendment to the Employment Relations Act 2000 (NZ) (ER Act) excluding 'film production workers' from the definition of 'employee' in s 6 of the Act. The effect of the amendment is to deny those workers access to the schema of industrial regulation under the Act, including regulated collective bargaining. But does this mean that they cannot engage in any form of collective bargaining? This issue was contested during the 'Hobbit' dispute that led to the exclusion of film production workers from coverage under the ER Act. This article explores the extent to which independent contractor workers in New Zealand can act collectively in the determination of the terms and conditions of their engagements in light of common law and competition law. The article adopts a comparative perspective, considering the parallel problems caused by this issue in Australia and drawing on Australian competition laws and practices to illuminate the likely outcomes under New Zealand law in the event of collective bargaining by independent contract workers.

OF EARTHQUAKES, RED ZONES AND PROPERTY RIGHTS: THE *QUAKE OUTCASTS* CASE

JOHN PAGE AND ANN BROWER

This is a short commentary on the Court of Appeal's 2013 decision in the Quake Outcasts case, and its implications for property. Minister for Canterbury Earthquake Recovery v Fowler Developments Ltd considered the validity of the red zones of condemned land, and of the government's offer to pay 50 per cent of the value of uninsured red zone land. Perhaps unintentionally, Quake Outcasts says something about our elusive relationship with property. If property were merely a commodity, there would have been no 50 per cent offers in the first place, let alone subsequent litigation with underlying themes of individual and communitarian fairness and equality. Quake Outcasts underscores the "thinness" of property's central logic and reveals that core assumptions held about property are not as "totalizing and individualizing" as we suppose.